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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1969

No. 1050

LEE E. TARVESTAD and

GEORGE A WYUM,

Petitioners,

v.

UNITED STATES OF AMERICA

REPLY BRIEF

ROBERT VOGEL
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58554

LYLE HUSEBY
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Fargo, North Dakota
58102

ATTORNEYS FOR PETITIONERS

IN THE

SUPREME COURT OF THE UNITED STATES

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LEE E. TARVESTAD and GEORGE A. WYUM,

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v.

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REPLY BRIEF

ISSUED RAISED IN BRIEF OF UNITED STATES IN OPPOSITION

The Government, at page 12, of the brief in opposition, states that petitioner Tarvestad, at the request of the defense, was committed for a medical examination by federal authorities, citing Record 79-81.

This is incorrect. Record 78-81 is an order committing the defendant for medical examination, but the commitment was made on the Government's motion (Record 53-59), and supported by an affidavit of the Government (R. 70-71) and the Government's brief in support of its motion (R. 72-3). We believe it is a matter of some importance that the Government took the initiative in having the psychiatric examination made.

Similarly, the Government seems to be attempting to create an issue as to the addition to Placidyl, claiming, on page 12, of its brief in opposition, that Placidyl is "similar to phenobarbital" and a "non-barbiturate sedative, with a sleep inducing effect, a sleeping pill designed to reduce tension". The evidence is very clear

Placidyl is addictive, and Lee Tarvestad was addicted to it. See testimony of Dr. Kohlmeyer generally (Tr. 2291-2371 - and particularly 2314-16).

ADDITIONAL REFERENCES TO TRANSCRIPT

With apologies for omitting them in our original brief, we would like to add the following page references to the transcript to support the arguments in our original brief:

Point V - Transcript 2487, 2453.

Point VI - Transcript 1772-3.

Point VII - Transcript 1688, 1703, 1716, 1763, 1764, 1785, 1786.

Dated February 13, 1970.

Respectfully submitted,

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By Robert Vogel
Robert Vogel

Attorneys for Petitioners

STATE OF NORTH DAKOTA)
) ss
COUNTY OF MORTON)

I, Clara Karls, stenographer in the office of Robert Vogel, attorney of record for George A. Wyum, one of the appellants herein, depose and say that on February 14, 1970, I served a copy of the foregoing

REPLY BRIEF

on the United States of America, appellee herein, by mailing a copy thereof, in a duly addressed envelope, with air mail postage prepaid, to

Erwin N. Griswold
Solicitor General
Department of Justice
Washington, D.C.

and by mailing a copy thereof, in a duly addressed envelope, with first class postage

prepaid, to

Harold O. Bullis
United States Attorney
P. O. Box 292
Fargo, North Dakota
counsel of record for said appellee.

Clara Karls

Subscribed and sworn to before me

this 14th day of February, 1970.

Lois J. Helmer
Notary Public
Morton County, North Dakota
My commission expires:
July 19, 1974.

(SEAL)